

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

MARIAH BLACKBURN, an  
individual,

Plaintiff,

v.

MIKE ASHER, an individual; and  
NATHAN CASTILLO, and individual,

Defendants.

NO: 2:21-CV-0214-TOR

ORDER DISMISSING CASE FOR  
LACK OF SUBJECT MATTER  
JURISDICTION

On July 19, 2021, Plaintiff filed a lawsuit against Defendants alleging this Court has subject matter jurisdiction based on diversity of citizenship under 28 U.S.C. § 1332. ECF No. 1. Plaintiff is a citizen of Washington. *Id.* at 2, ¶ 5. Defendant Mike Asher is domiciled in Arizona. *Id.* at ¶ 6. However, Defendant Nathan Castillo is domiciled in Washington. *Id.* at ¶ 7.

“It is a fundamental precept that federal courts are courts of limited jurisdiction.” *Owen Equip. & Erection Co. v. Kroger*, 437 U.S. 365, 374 (1978)

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(limits on federal jurisdiction “must be neither disregarded nor evaded”); *see also* *U.S. v. Bravo-Diaz*, 312 F.3d 995, 997 (9th Cir. 2002) (“a court of the United States may not grant relief absent a constitutional or valid statutory grant of jurisdiction”). Thus, it is presumed that a federal court lacks jurisdiction” unless the contrary affirmatively appears.” *Stock West, Inc. v. Confederated Tribes*, 873 F.2d 1221, 1225 (9th Cir. 1989). A court may consider subject matter jurisdiction *sua sponte*. *United Investors Life Ins. Co. v. Waddell & Reed Inc.*, 360 F.3d 960, 967 (9th Cir. 2004) (the district court had a duty to establish subject matter jurisdiction over the removed action *sua sponte*, whether the parties raised the issue or not). It is well established that “lack of federal jurisdiction cannot be waived or be overcome by an agreement of the parties.” *Id.* at 966-67 (citing *Mitchell v. Maurer*, 293 U.S. 237, 244 (1934); *see also Toumajian v. Frailey*, 135 F.3d 648, 652 (9th Cir. 1998) (“In this action, as in all actions before a federal court, the necessary and constitutional predicate for any decision is a determination that the court has jurisdiction—that is the power—to adjudicate the dispute.”)).

Since *Strawbridge v. Curtiss*, 3 Cranch 267, 2 L.Ed. 435 (1806), the Supreme Court has read the statutory formulation “between . . . citizens of different States” to require complete diversity between all plaintiffs and all defendants. *Lincoln Prop. Co. v. Roche*, 546 U.S. 81, 89 (2005); *see also In re Digimarc Corp. Derivative Litig.*, 549 F.3d 1223, 1234 (9th Cir. 2008).

1 This action does not have complete diversity between plaintiff and all  
2 defendants.

3 **ACCORDINGLY, IT IS ORDERED:**

4 1. This action is **DISMISSED without prejudice** for lack of subject matter  
5 jurisdiction.

6 2. The pending motion, ECF No. 4, is **DENIED** as moot.

7 The District Court Executive is directed to enter this Order, enter judgment  
8 accordingly, provide copies to counsel, and **CLOSE** the file.

9 DATED October 21, 2021.



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*Thomas O. Rice*  
THOMAS O. RICE  
United States District Judge